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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,398	10/22/2003	Paolo Sordelli	29891/FFP03864	6822
4743	7590	07/19/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			SORKIN, DAVID L	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/691,398	SORDELLI ET AL.	
	Examiner David L. Sorkin	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 9 should end with a period rather than a comma.
2. Claim 18 is a duplicate of claim 11 and will be objected to if claim 11 is allowed.

Perhaps claim 18 should depend from claim 12 rather than claim 1.

3. In claim 19, line 5, "clam" apparently should read - - clamp - -.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, there is lack of antecedent basis for "the first arm". It is unclear if the first arm is a required element of the claimed mixer.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derosha (US 1,594,516) in view of Knight (US 2001/0038573). Derosha ('516) discloses a gyroscopic mixer for mixing the contents of a closed container comprising a motor (18) couple to a bracket (1), the motor imparting rotational movement to the

bracket about a first axis, the bracket being rotatively connected to a pulley gear (12) that is enmeshed with a stationary annular gear (11) that is concentric about the first axis and which defines a circular gear path about the first axis, the pulley gear mixing along the circular path as the bracket rotates about the first axis, the pulley gear (12) being connected to drive gear (14), the pulley gear (12) and drive gear (14) spinning about the second axis as the pulley gear moves along the circular gear path of the annular gear, the bracket also being rotatively connected to a driven gear (16), the bracket is also rotatively connected to the driven gear, the drive and driven gears being coupled together, the bracket also being rotatively connected to a clamp assembly (25, 30) that is rotatively coupled to a driven platform (10), the driven gear (16) being connected to a drive platform (9), the driving gear (16), the drive platform (9) and the driven platform (10) being disposed along a third axis, the clamp assembly being capable of adjusting the axial spacing between the driven and drive platforms and providing a clamping force on the container when disposed therebetween, the spinning of the pulley gear (12) and drive gear (14) about the second axis resulting in spinning of the driven pulley, drive platform and driven platform about the third axis. The difference between the claimed mixer and the mixer of Derosha ('516) is that the mixer of Derosha ('516) has an intermeshing gear drive rather than a pulley drive. Knight ('573) is relied upon as evidence that intermeshing gear versus pulley/belt drives are art recognized alternatives for driving mixers. See paragraph [0092] and Fig. 1 versus Fig. 11. The motor is connected to the bracket by a drive shaft assembly (2,4). The bracket is a c-shaped bracket with a generally vertical middle arm disposed between generally

horizontal first (8) and second (7) arms, the middle arm connected to the motor, the first arm (8) being connected to the clamp assembly and supporting the driven platform (10), the second arm (7) rotatively supporting the drive and driven gears and platform (9). The motor is directly connected to the middle leg by drive shaft assembly (2,4) that imparts rotational movement to the bracket about the first axis without a pulley. The pulley gear (12) is supported by the middle arm and is connected to the drive gear by a generally vertical shaft (13) that is generally parallel to the middle arm. The clamp assembly comprises a threaded shaft (25) connected to the first arm (8) of the bracket and fixedly connected to a clamp member (28), the clamp member being rotatively connected to the driven platform (10). The motor is coupled to the bracket by a drive shaft (2) that passes through a casing (4), the casing comprising an annular flange that is connected to the annular gear (see Fig. 1).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David L. Sorkin  
Primary Examiner  
Art Unit 1723

DLS